

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION
Civil Action No.: 06-CV-00262

James Savedge,)
)
Plaintiff,)
)
vs.)
)
Bank of America, N.A.,)
Frederick J. Hanna & Associates,)
Frederick J. Hanna, Esquire, T. Camille)
French, Esquire, Carol Farringer,)
John Doe, Jane Doe, One Up)
)
Defendant(s).)

**MOTION TO DISMISS WITH
PREJUDICE**

COME NOW Defendants Bank of America, N.A.¹ and Carol Farringer, by and through their undersigned counsel, and moves the Court pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss the Complaint and Demand for Jury Trial (the “Complaint”) of the Plaintiff, James Savedge, with prejudice. In support of Defendants’ Motion, Defendants show the Court the following:

1. The Complaint fails to state a claim upon which relief can be granted;
2. The Complaint fails to meet the standard of notice pleading set forth by the Rules of Civil Procedure, and fails to allege sufficient facts to support the conclusory allegations set forth therein; and
3. Defendants are not debt collectors as defined by the Federal Fair Debt Collection Practices Act (the “FDCPA”).

WHEREFORE, Defendants respectfully request:

1. That the Court grant Defendants’ Motion to Dismiss With Prejudice;

¹ The true party in interest as reflected in the Amended Complaint filed in state court on May 4, 2006, is Bank of America, N.A. (USA).

2. That all costs of this action, including attorneys' fees, as allowed by law, be assessed against the Plaintiff; and

3. The Court grant such other and further relief as the Court deems just and proper.

This the 17th day of August, 2006.

/s/ Amy Pritchard Williams
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing MOTION TO DISMISS WITH PREJUDICE was served on the party listed below by First Class Mail, postage prepaid and addressed as follows:

James Savedge
Post Office Box 176
Reidsville, NC 27323

This 17th day of August, 2006.

/s/ Marc E. Gustafson
Marc E. Gustafson
North Carolina State Bar No. 34429